

AMENDED IN ASSEMBLY APRIL 24, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2701

Introduced by Assembly Member Blakeslee

February 24, 2006

An act to ~~add Section 13269.2 to amend Sections 1701.3 and 1703.6 of the Water Code, relating to water.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2701, as amended, Blakeslee. ~~Water quality; waste discharge; irrigated lands.~~ *Appropriation of water.*

Under existing law relating to the appropriation of water, an applicant, permittee, or licensee may change the point of diversion, place of use, or purpose of use of water from that specified in the application, permit, or license, with the permission of the State Water Resources Control Board. Existing law provides petition procedures for such a change, and authorizes any interested person to file with the board a written protest against approval of a petition. Existing law authorizes the board to request from the protestant additional information reasonably necessary to clarify, amplify, correct, or otherwise supplement the information included in the protest, and to request from the protestant or the petitioner additional information that the board determines is reasonably necessary to attempt to resolve the protest. Existing law authorizes the board to cancel a protest or petition for failure to provide information requested by the board under this article within the period provided.

This bill would make technical and clarifying changes to those provisions relating to requesting additional information and canceling a protest.

~~Under the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board and the California regional water quality control boards prescribe waste discharge requirements. Under the act, the Central Coast Regional Water Quality Control Board (regional board) implements a conditional waiver program for waste discharges from irrigated lands.~~

~~This bill would provide that a discharger is deemed to be in compliance with that conditional waiver program if the discharger is an agricultural operation that is less than 50 acres in size, submits a prescribed certification to the regional board every 7 years, and meets certain other requirements. The bill would subject the discharger to all of the requirements imposed by the conditional waiver program if the regional board determines that the discharger has failed to comply with any of the requirements specified in the bill.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 1701.3 of the Water Code is amended to*
- 2 *read:*
- 3 1701.3. (a) After a petition is filed, the board may request
- 4 additional information reasonably necessary to clarify, amplify,
- 5 correct, or otherwise supplement the information required to be
- 6 submitted under this ~~article~~ *chapter*. The board shall provide a
- 7 reasonable period for submitting the information.
- 8 (b) The additional information may include, but need not be
- 9 limited to, any of the following:
- 10 (1) Information needed to demonstrate that the change will not
- 11 injure any other legal user of water.
- 12 (2) Information needed to demonstrate that the change will
- 13 comply with any applicable requirements of the Fish and Game
- 14 Code or the federal Endangered Species Act of 1973 (16 U.S.C.
- 15 Sec. 1531 et seq.).
- 16 (3) Information needed to comply with Division 13
- 17 (commencing with Section 21000) of the Public Resources Code.
- 18 *SEC. 2. Section 1703.6 of the Water Code is amended to*
- 19 *read:*

1 1703.6. (a) The board may cancel a protest or petition for
2 failure to provide information requested by the board under this
3 ~~article~~ *chapter* within the period provided.

4 (b) Except as provided in subdivisions (c) and (d), the board
5 may not cancel a protest for failure to submit information not in
6 the possession or under the control of the protestant if the protest
7 meets the requirements of Section 1703.2 and the petitioner is or
8 could be required to submit the information under Section
9 1701.1, 1701.2, ~~and~~ *or* 1701.3.

10 (c) If a protest is based on injury to a legal user of water, the
11 board may cancel the protest if the protestant fails to submit any
12 of the following information requested by the board:

13 (1) Information that the protestant is required to submit to the
14 board to comply with Part 5.1 (commencing with Section 5100)
15 during any period after the protest is filed.

16 (2) Information that is reasonably necessary to determine if the
17 protestant has a valid water right.

18 (3) Information concerning the protestant's historical, current,
19 or proposed future diversion and use of water that is reasonably
20 necessary to determine if the proposed change will result in
21 injury to the protestant's exercise of its water right.

22 (d) If the protest is based on an allegation other than injury to
23 a legal user of water, the board may cancel the protest for failure
24 to submit information requested by the board if the board
25 determines both of the following:

26 (1) The public review period has expired for any draft
27 environmental document or negative declaration required to be
28 circulated for public review and comment pursuant to Division
29 13 (commencing with Section 21000) of the Public Resources
30 Code.

31 (2) In the absence of the requested information, there is no
32 substantial evidence in light of the whole record to support the
33 allegation.

34 (e) If a protest is subject to both subdivisions (c) and (d), the
35 part of the protest subject to subdivision (c) may be canceled
36 pursuant to subdivision (c) and the part of the protest subject to
37 subdivision (d) may be canceled pursuant to subdivision (d).

38 ~~SECTION 1. Section 13269.2 is added to the Water Code, to~~
39 ~~read:~~

1 ~~13269.2. (a) For the purposes of this section, “regional~~
2 ~~board” means the Central Coast Regional Water Quality Control~~
3 ~~Board.~~

4 ~~(b) A discharger shall be deemed to be in compliance with the~~
5 ~~conditional waiver program adopted by the regional board~~
6 ~~pursuant to Resolution No. R3-2004-0117 for waste discharges~~
7 ~~from irrigated lands if the discharger meets all of the~~
8 ~~requirements of this section.~~

9 ~~(c) For the purposes of subdivision (b), the discharger shall do~~
10 ~~all of the following:~~

11 ~~(1) Certify every seven years to the regional board, on a form~~
12 ~~approved by the regional board, that all of the following applies:~~

13 ~~(A) The discharger is an agricultural operation that is less than~~
14 ~~50 acres in size.~~

15 ~~(B) The discharger does not discharge waste or discharges a~~
16 ~~minimal amount of waste by means of a drip irrigation system, a~~
17 ~~retention and evaporation system, or a catch pond, grass~~
18 ~~waterway, or other appropriate management practice to reduce~~
19 ~~the discharge of waste.~~

20 ~~(C) The discharger has demonstrated in the applicable farm~~
21 ~~water quality management plan the use of best management~~
22 ~~practices relating to stormwater erosion control.~~

23 ~~(2) Comply with the fee requirements of the conditional~~
24 ~~waiver program referred to in subdivision (b), except that the~~
25 ~~discharger is not required to pay any portion of the fees relating~~
26 ~~to monitoring costs.~~

27 ~~(3) Comply with the educational requirements of the~~
28 ~~conditional waiver program referred to in subdivision (b).~~

29 ~~(4) Submit every seven years to the regional board a farm~~
30 ~~water quality management plan required in connection with the~~
31 ~~conditional waiver program referred to in subdivision (b).~~

32 ~~(d) If the regional board determines that the discharger has~~
33 ~~failed to comply with any of the requirements set forth in~~
34 ~~subdivision (c), the discharger shall be subject to all of the~~
35 ~~requirements imposed by the conditional waiver program~~
36 ~~referred to in subdivision (b).~~